

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT E. EDWARDS,

Plaintiff,

v.

Case No. 15-cv-1324-pp

MELISSA TAKACA,
JAMES RAEL,

Defendants.

**ORDER CLOSING CASE FOR ADMINISTRATIVE PURPOSES WITH THE
RIGHT TO REOPEN ONCE THE PLAINTIFF HAS EXHAUSTED ALL STATE
COURT REMEDIES**

On November 6, 2015, the plaintiff filed a complaint, alleging that the defendants had violated his civil rights by tampering with evidence in a case he had in Milwaukee County Circuit Court. Dkt. No. 1. At the time he filed the complaint, the plaintiff was in the House of Corrections in Franklin, Wisconsin. Id. at 1. The court screened the complaint, and in an order dated May 16, 2016, explained to the plaintiff that because that state court criminal case was not over yet, the court could not intervene. Dkt. No. 9 at 5. The court explained to the plaintiff that if he disagreed with the outcome of the state court case, the appropriate procedure was for him to file an appeal in state court, and advised him to talk to his lawyer about how to do that. Id. The court stayed the federal case pending resolution of the Milwaukee county case and the outcome of any appeals the plaintiff might file in that case. Id. at 7.

On August 7, 2016—almost eighteen months ago—the court received a letter from the plaintiff, explaining that he had pursued post-conviction relief in his state case and that an attorney had been appointed to represent him. Dkt. No. 10. He notified the court that he'd been moved to Dodge Correctional Institution. Id. Forty-five days later, the court received another letter from the plaintiff, explaining that he'd been moved to Racine Correctional Institution, and that he expected to be there for at least ninety days. Dkt. No. 11. That is the last the court has heard from the plaintiff.

The Department of Corrections' Inmate Locator web site shows that on April 13, 2017, the plaintiff was transferred to the Sturtevant Transitional Facility, and that on June 13, 2017, he was released from Sturtevant to extended supervision. <https://appsdoc.wi.gov/lop/detail.do> The plaintiff has not contacted the court to provide an address. The court accessed the docket for the plaintiff's state court case through the Wisconsin Circuit Court Access Program ("CCAP"). The docket shows that on June 30, 2016, the plaintiff filed a notice of intent to seek post-conviction relief in the state case. State of Wisconsin v. Robert Earl Edwards, Sr., Case No. 2015CF002912 (Milwaukee County Circuit Court) (accessible at <https://wcca.wicourts.gov>), Dkt. No. 37. He filed a notice of appeal on June 1, 2017. Id. at Dkt. No. 10. The Court of Appeals' web site shows that the plaintiff's lawyer filed a "no merit" report on July 17, 2017. State v. Robert Earl Edwards, Sr., Appeal No. 2017AP001045 (Wisconsin Court of Appeals District 1) (accessible at

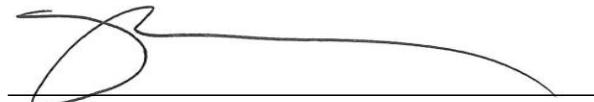
<https://wscca.wicourts.gov>). The last docket entry in the court of appeals states, as of September 8, 2017, “Response to No Merit Not Filed.” Id.

Because of the amount of time that has passed, the court will *administratively* close the plaintiff’s case until the state proceedings become final. The parties will retain all rights they would have had had the case not been closed for administrative purposes. Within thirty days of the date that the state court proceedings become final, the plaintiff may file a one-sentence motion asking the court to reopen his case. The court will grant that motion immediately, and the filing date for his federal complaint will remain November 6, 2015. (In other words, this administrative closure and any subsequent reopening do not change the fact that, for statute of limitations purposes, the plaintiff filed his complaint on November 6, 2015.)

The court **ORDERS** the clerk of court to **CLOSE** this case for administrative purposes. After the plaintiff has exhausted his state court remedies, he shall have thirty days to file a motion to reopen his case with this court.

Dated in Milwaukee, Wisconsin this 7th day of February, 2018.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge